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Government
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SUMMARY

*Canada - Commission and effects
of inquiry*

REPORT OF THE ADVISORY COMMISSION

ON THE

DEVELOPMENT OF GOVERNMENT

IN THE

NORTHWEST TERRITORIES

1966 OTTAWA, CANADA.

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SUMMARY OF
REPORT OF THE
ADVISORY COMMISSION
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A. INTRODUCTION

The original report is divided into seven parts. The first six parts contain background material to the seventh, which contains the recommendations. This summary reproduces the recommendations and the postulates on which the recommendations are based, together with a minimum of explanatory text. This document has been prepared for the convenience of reference only. In considering or assessing the recommendations and the postulates on which they are based the reader should refer to the original report, including the background material and explanatory text therein.

Part A of the original report contains introductory material: the terms of reference and the interpretation which the commission gave to them; an outline of the procedures which the commission followed in carrying out its assignment, including a description of the public hearings held in the Territories and in Ottawa and the special studies that were commissioned to assist in the undertaking; and a description of the contents of the original report.

Part B is a brief description of the evolution of the present form of government in the Northwest Territories, written with a view to putting today's problems in their historical perspective.

Part C is a functional review of government in the Northwest Territories today. It gives a condensed description of activities of federal government departments operating in the Territories, an outline of the function of the territorial government, a description of settlement types in the Territories and the forms of local government for which the present law makes provision, and a sketch of non-governmental institutions that relate to the operation of government - missions, cooperatives, and commercial and labour organizations.

Part D essays to describe certain non-governmental problems of the north that relate to government: the social and economic state of the northern peoples and the impact of physical characteristics on matters relating to government.

Part E sets forward the alternative programs for political development which the commission considered in arriving at its recommendations.

The first group of choices relate to alternative constitutional forms: those that adhere to the federal principle and one that does not. Consideration is given here to certain constitutional peculiarities which pervade the problem of choice, whether it be federal or non-federal, and to certain specific issues of forms of government. This section is followed by a consideration of alternative geographic areas of government for the Northwest Territories.

Part F sets down, in the form of logical premises, certain principles, or postulates, on which the recommendations are based; Part G records the recommendations themselves. This summary extracts the postulates and the recommendations, together with a minimum of text. For convenience of reference the same chapter headings are used in the rest of this summary as appear in the original report for these parts.

The appendices to the original report bear the following titles:

Appendix A	Travel-Hearings
Appendix B	Table and Indexes of Briefs
Appendix C	Table and Indexes of Submissions
Appendix D	Subject Indexes to Abstracts of Verbatim Report and Speakers' Index to Verbatim Report
Appendix E	Introductory Remarks and Questions
Appendix F	List of Persons who Appeared at Ottawa Hearings
Appendix G	Map Showing Travel of Advisory Commission
Appendix H	Acknowledgments

The special studies which were commissioned in the execution of the terms of reference include "Economic and Social Development in the Northwest Territories" by Hedlin, Menzies & Associates Limited, Winnipeg, Manitoba; a comparative study relating to the indigenous peoples of Australia, New Zealand and North America, under the direction of J. Jameson Bond, University of Windsor; "A Plan for Human Resource Development Within the Northwest Territories" by Professor Bond; an atlas of the Northwest Territories and a description of settlements visited by the commission, by Dr. W.O. Kupsch, executive director of the commission; and a summary of published research on socio-economic and political development in the Northwest Territories by J.R. Lotz and G.F. Parsons.

F. POSTULATES

The north is full of dilemmas unresolvable without the guidance of value judgments, and not easily resolvable - some perhaps not at all resolvable - even then. The postulates are value judgments that were devised in order to give direction to our studies and to break into manageable dimensions the attack on the vast problems of the north. They form the foundations of our recommendations.

1. Every citizen of Canada has a claim to participate in the institutions of responsible government under the Canadian constitution; it is a goal of political development of the Northwest Territories that the optimum number of Canadian citizens resident in the Territories should, at an optimum speed, participate in government as fully as Canadian citizens resident in the provinces.
2. The competence of political institutions should be commensurate with the dimensions of the social and economic problems in the political unit.
3. The structure and technique of government should not be foreign to the Canadian political tradition.
4. Every resident of the Northwest Territories for whom freedom of movement within and without the Territories is not a realistic fact has a claim to economic opportunity that will provide a standard of living that does not deviate substantially from the Canadian norm.
5. So long as the Northwest Territories remains a political unit or units separate from the provinces, the federal government has a major, although not necessarily an exclusive, responsibility for its economic development.
6. The Eskimos and Indians, as indigenous minorities, should be free to maintain their cultural and ethnic identities, subject to fundamental human rights as recognized by the Canadian constitution.

We have sought to state this premise in the form of choice, in the form of freedom to choose, recognizing that the desire to take advantage of economic opportunity may involve the individual in paying the price of giving up an appreciable measure of his cultural and ethnic identity, and recognizing also that there may be within those identities ingredients which are not consistent with fundamental human rights as recognized by the Canadian constitution.

G. RECOMMENDATIONS

1. GENERAL OBSERVATIONS

Qualities of uniqueness and unpredictability affect both our recommendations and the time span for which we foresee the recommendations would be operative. In terms of time span, we recommend that the question of the government of the Northwest Territories be reviewed again in ten years' time; we have sought to make our recommendations appropriate for a decade.

2. THE ISSUE OF DIVISION

We recommend against division of the Northwest Territories into two or more political units at this time.

The claim of the white population to greater self-government, and, indeed, to patriation of their government, is one of great weight. The question is whether division is a necessary or desirable move in the direction of meeting these political ambitions. We have come ultimately to the conclusion that the claim can be satisfied almost as fully at the present time without division as with it; there will be a certain political price, not so much in the form of government as in its operation and administration. We have also come to the conclusion that division would likely bear consequences prejudicial to the political interests of the Eskimos in the residual area east and north of the Mackenzie and the Indians in the west which should and can be avoided at this time. With division there would be a very great risk that the eastern Arctic would become sealed off, would remain dominated by the central government, and might never acquire anything more than a nominal form of self-government. Division would create a white majority in the Mackenzie, with the very great likelihood of a white government. Division could have the accidental and unintended effect of gerrymandering the indigenous peoples of the north out of effective participation in territorial self-government.

Another argument against division is that a dividing line once drawn is not easily changed; in fact it would in all probability be permanent. Yet not enough is known about the country to determine with informed confidence where the line should run: such a decision can be arrived at only after an economic study in depth has been made.

A further argument against division is that two attenuated governments are less likely to attain their claims against the central government than is one consolidated government. And apprehension is expressed that given the likelihood that the governments would enact divergent laws respecting such matters as game control, a line which must inevitably run through land inhabited by an indigenous race would oblige such peoples, as they move in the normal process of hunting, trapping or fishing, to cope with two sets of laws and regulations.

We believe that division in some form and at some stage is probably inevitable, for the greatest and immutable factor militating toward division is sheer size; but we believe that the passage of a decade will make a tremendous difference to the political competence of the indigenous peoples and will likely see quite rapid development in the most viable area of the north, the southern part of the Mackenzie.

We conclude that what is required now is not provincehood but the means of growth to provincehood; that the best move for the peoples of the Northwest Territories at the present time is to retain the Territories as a political unit, to locate the government of the Territories within the Territories, to decentralize its operations as far as practicable, to transfer administrative functions from the central to the territorial government in order that the latter may be accountable on site for the administration of the public business, and to concentrate on economic development and opportunity for the residents of the north.

3. THE SEAT OF GOVERNMENT

The opinion most commonly and uniformly expressed in our public hearings was that the capital of the Northwest Territories should be located within the Territories. We believe this to be right in principle, and so recommend.

A far more controversial issue is the choice of a capital site. We understand that the Minister and members of the Northwest Territories council looks to this commission for a specific recommendation. There is no advantage in creating a new town. We recommend that the capital be located at Yellowknife.

Our reasons for favouring Yellowknife are as follows:

- (a) of the major contenders for the capital, Yellowknife is closest to the demographic centre of the Northwest Territories and is most accessible to the most number of residents of the Territories;
- (b) it would be an appropriate location for the present political unit of the Northwest Territories or for the western part of a divided territory;
- (c) it is close to the mean territorial climate and average living conditions;
- (d) it has first class telephone, telegraph and radio facilities;
- (e) it has access by road and water;
- (f) it has good airport facilities and is the major centre of air charter services in the Territories;
- (g) it is on a travelled route;
- (h) it has a non-government economic base;
- (i) it has satisfactory building conditions and sufficient available land, and is physically ready to provide a capital site and to accommodate an expanding population;
- (j) it has an established municipal government, an operative town plan, and good public utilities and services;
- (k) it is the judicial centre of the Territories, and offers a wide range of professional and commercial services;
- (l) it offers primary, secondary and vocational education and has established school districts;

- (m) it offers a diversity of interests and assets for new residents who will be drawn to the capital;
- (n) of the major contenders for the capital, its physical characteristics are the most conducive to an identification by all residents of the north with the location as their capital.

In making our recommendation respecting the selection of a capital site we have been concerned over the legitimate expectations - the "reliance interest" - of Fort Smith. We recommend that examination be given to the question whether any person who can show satisfactorily that he established himself or expanded his establishment in Fort Smith after 1962 in reliance on the expectation that it would become the capital and has been prejudiced thereby, should be moved at public expense to Yellowknife if he so wishes, or be compensated accordingly.

4. THE STRUCTURE OF THE TERRITORIAL GOVERNMENT

We recommend that there be

- (a) a commissioner
- (b) a deputy commissioner
- (c) an executive council
- (d) a legislative assembly
- (e) the following major departments:
 - (i) economic development and finance
 - (ii) local government
 - (iii) education
 - (iv) welfare and social services
 - (v) public works
 - (vi) justice
 - (vii) lands and resources
- (f) a Northwest Territories Development Board
- (g) a Northwest Territories Development Corporation

(a) The Commissioner

We recommend that

- (i) the office of commissioner of the Northwest Territories be continued;
- (ii) the commissioner be appointed during pleasure by the governor general in council on the recommendation of the minister of Northern Affairs;
- (iii) the commissioner hold the rank of federal deputy minister and that he be responsible directly to the minister of Northern Affairs;
- (iv) the commissioner be chairman of the legislative assembly and preside over the legislative assembly;
- (v) the commissioner preside over the executive council;
- (vi) the commissioner be paid a stipend by authority of a federal statute as a first charge on the Northwest Territories consolidated revenue fund;
- (vii) in addition to the powers which the commissioner now holds, and subject to instructions from the minister, the commissioner have the power to dissolve the legislative assembly, and to reserve a bill of the legislature for the pleasure of the governor in council;
- (viii) the commissioner have the right to vote in the legislative assembly in the event of a tie vote of the members;
- (ix) the commissioner reside in the Northwest Territories at the capital of the Northwest Territories.

We do not recommend the status of provincehood for the Northwest Territories at this time. Accordingly we have sought to use titles for offices and institutions of government that will not convey the impression that the office or the institution is part of the machinery of fully responsible government.

(b) The Deputy Commissioner

We recommend that

- (i) the office of deputy commissioner of the Northwest Territories be continued;
- (ii) the deputy commissioner be resident in the Northwest Territories;
- (iii) the deputy commissioner be appointed by the commissioner with the consent of the minister;
- (iv) at an appropriate time the deputy commissioner be chosen from among the elected members of the legislature;
- (v) the deputy commissioner be capable of receiving power delegated by the commissioner.

(c) The Executive Council

We recommend that

- (i) there be an executive council;
- (ii) the executive council be composed of such persons as are appointed during the pleasure of the commissioner;
- (iii) a member of the executive council not be required to be an elected member of the legislative assembly in order to qualify for appointment;
- (iv) the executive council be presided over by the commissioner;
- (v) each member normally be charged with the administration of one or more departments in the territorial government;
- (vi) the executive council coordinate finance, prepare the budget, prepare legislation in principle, and generally tender advice on any territorial matter on which the commissioner should seek advice.

- (vii) the salary of members of the executive council be determined by territorial legislation.

(d) The Legislative Assembly

We recommend that

- (i) the name of the council of the Northwest Territories be changed to the legislative assembly of the Northwest Territories;
- (ii) the ordinances of the legislative assembly be designated statutes;
- (iii) the legislative assembly be composed of 18 persons, 14 elected and four appointed by the commissioner during his pleasure, all members to have the power to vote;
- (iv) the territorial franchise be extended to all qualified citizens over the age of 19;
- (v) the legislative assembly sit in the capital;
- (vi) the legislative assembly be subject to a statutory provision that there be an election at least every five years, and that normally the legislative assembly be dissolved after four years;
- (vii) in addition to the powers that it has at present, the legislative assembly have all the powers of a provincial legislature, subject to the following exceptions and qualifications:
 - (A) that it not be given in general terms power to amend the constitution of the Northwest Territories, but that it retain such parts of this power as it already has, and that, in addition, it be given the power to set the indemnity of its members upon the recommendation of the commissioner;

- (B) that its powers in relation to financial matters (borrowing of money, consolidated fund, auditing of accounts and ancillary subjects) remain as they are after the 1966 amendments to the Northwest Territories Act;
- (C) that its power over the management and sale of public lands affect only surface rights, the appropriation of certain of which is recommended elsewhere in this report;
- (D) that its power over the administration of justice be qualified by a provision in the Northwest Territories Act that takes into account the continuing jurisdiction of the federal parliament over the administration of justice for the Territories as it may function outside the geographic limits of the Territories (for instance, the vesting of appellate jurisdiction in judges of other provinces or of the Yukon).

We recommend that appointed members be retained in the legislature and that the question be reconsidered by the minister in five years.

(e) Administration; the Civil Service

We recommend that administrative functions be transferred to the territorial civil service on a specified schedule as soon as practicable.

We would not consider it unreasonable that the major transfer be completed within two years.

It is essential to the scheme of responsible government contemplated in this report that administration be transferred from the central to the territorial government.

(f) Economic Development

The characteristic of the Northwest Territories which has concerned your commissioners at least as much as the form of government is the state of economic development for residents of the north.

We recommend that

- (1) there be a department of economic development and finance within the territorial government;
- (2) initially the secretary of economic development and finance be the commissioner of the Northwest Territories;
- (3) there be created a Northwest Territories Development Board composed of representatives of federal and territorial government administrations and the Economic Council of Canada;
- (4) there be established a Northwest Territories Development Corporation; and
- (5) there be regional economic planning, and a close coordination of federal and territorial governmental economic activities in the Northwest Territories.

We recommend the adoption of the policy of regional development in the Northwest Territories and coordination of the activities of economic import of federal and territorial governments to maximize the economic advantages that may be derived from expenditures from the public purse.

To this end we recommend the creation of a Northwest Territories Development Board. We envisage the activities of this Board to be the key to northern economic development, with an important assist to the private sector from the Northwest Territories Development Corporation.

The two principal groups who should be represented on the Development Board are the senior civil servants (assistant

deputy ministers and division chiefs) of the federal government departments which are responsible for making plans and spending money in the north, and their counterparts in the territorial government. We recommend also that there be represented on the Board the Economic Council of Canada and the Advisory Committee on Northern Development. We recommend further that the Board be chaired by the secretary of economic development in the Northwest Territories government. We recommend further that the Board have a permanent secretariat in the Territories which would constitute all or part of the staff of the department of economic development in the Northwest Territories government.

The Board would be responsible for preparing plans for economic development in the Northwest Territories on a regional and territorial basis. To this end the Territories must be divided into regions. We recommend that the boundaries of these regions be determined on the recommendation of the Development Board after study.

Within the regions there must be machinery for making an economic assessment at the grass roots level, or what one of our advisers called the lichen level. We envisage that this regional assessment should be made in the first instance by a regional organization, which may be called a regional council, composed of federal and territorial field representatives and regional citizens' groups, with specialist assistance.

One of the important ingredients in the program for regional assessment is the regional citizens' group. We recommend that the citizens' groups within a region be composed of nominees of local councils and town and village councils within the region.

We recommend the creation of a Northwest Territories Development Corporation as a territorial corporation with

an initial fund of \$10,000,000. We envisage that the Development Board would operate in the public sector of the economy. Obversely, we envisage the Department Corporation acting in the private sector. Its role would be to give management assistance and advice, make feasibility studies to attract new industry, provide physical and service facilities, both commercial and domestic and quite possibly of a tertiary industrial nature, and to make loans and guarantees.

(g) Department of Local Government

We recommend that

- (1) there be a department of local government;
- (2) there be a simple procedure for incorporation of communities and the creation of local community councils;
- (3) there be established a cadre of local government advisers;
- (4) there be established an institute of public affairs.

We consider that a continuing and intensified program for the development of local government, in which all residents can be offered the opportunity of a meaningful role which they can understand, is crucial to the economic, social and political development of the north.

In our view there should be a simple procedure, to be administered by the department of local government, for the formalization, at the settlement level other than the town or village, of local government, advisory councils and community councils. The council could have both a decision making and an advisory function; and the scope of its jurisdiction could be subject to extension by administrative act within the department of local government in cooperation with other departments having responsibility in the community.

We envisage that one of the first functions of the local council would be to assist in the work of the regional council by appointing a

nominee to the citizens' group of the regional council and by such other manner as the regional council may find useful. After the completion of the work of the regional council, there would be a continuing role for the local council to play in local affairs generally.

We envisage that the chairman of the local council will be required to give considerable time to the affairs of the community particularly if the council should nominate him to the citizens' group of the regional council. We therefore recommend that the office of chairman of the local council carry a commensurate honorarium.

As a means to preserving the program for local government, we recommend the establishment of a small cadre of highly-trained itinerant local government advisers to work with the residents in the settlements, and in due time with local councils, within regions designated for the purpose.

We have elsewhere recommended the establishment of a Northwest Territories Development Board on a permanent basis for the continuing economic development of the Northwest Territories. We believe that political development requires the same continuing attention on a comparable basis appropriate to the political interest. To this end we recommend the establishment within the department of local government of an institute of public affairs. We perceive the function of the institute of public affairs to be educational. With a small staff with backgrounds in political science and anthropology, and if possible with an intimate knowledge of the north, it would offer a flexible program, oriented to the north, in public affairs and allied fields, to civil servants, persons elected to public office, indigenous leaders, and young persons of promise. Attendance would be voluntary, and qualifications would be minimal. We recommend that those who take advantage of the program be paid an amount calculated to compensate for economic loss which attendance might involve. We envisage that the program would be residential and located in the capital, although it might well be itinerant to a degree. We envisage also that participation in its program would be encouraged by local government advisers in their capacity as field staff of the institute.

(h) Department of Education

We recommend that there be a department of education.

Education is, in effect, the touchstone to the future, not only for the young who fall within the normal school age bracket, but for their elders, who should have available to them a program of adult education, of which community development is a part.

We recommend that the territorial government institute a crash program of university education for selected Indians, Metis and Eskimos.

(i) Department of Welfare and Social Services

We recommend that there be a department of welfare and social services.

(j) Department of Public Works

We recommend that there be a department of public works.

(k) Law Enforcement and the Judicial System

We recommend that

- (i) there be a department of justice; and
- (ii) territorial magistrates and other judicial officers whose jurisdiction is equivalent to that of judicial officers appointed in the provinces by provincial authority be appointed by the commissioner of the Northwest Territories.

(l) Department of Lands and Resources

We recommend that

- (i) there be a department of lands and resources, with jurisdiction over game, forestry, agriculture and surface rights to land in and adjacent to settlements; and
- (ii) there be a land titles office in the capital.

5. RELATIONSHIPS BETWEEN THE TERRITORIAL AND FEDERAL GOVERNMENTS NOT CONSIDERED ELSEWHERE

(a) The Quinquennial Financial Agreement

Until now the plan on which the budget is based has related only to Mackenzie district. If our earlier recommendations are accepted, the plan in future must cover the entire Northwest Territories.

(b) The Transfer of Administration

We recommend that the Department of Northern Affairs make an agreement with the government of the Northwest Territories for administration of Indian and Eskimo affairs by the Northwest Territories at the time when welfare administration is transferred.

(c) Federal-Provincial and Inter-Provincial Conferences

We recommend that the territorial government be represented as observers, or as members, depending on the appropriateness of the occasion, at federal-provincial and inter-provincial conferences, including conferences of ministers other than first ministers.

(d) Ownership of Natural Resources

This report refers earlier to the question of transfer of subsurface rights from the federal crown to the territorial government. In our judgment it would be premature to make the transfer at this time. We recommend, however, that surface rights to land in and adjacent to settlements be appropriated.

(e) Federal Power of Disallowance of Territorial Legislation

We recommend that the period within which the federal power of disallowance of territorial legislation may be exercised be reduced to one year, as is the case with the provinces.

(f) Decennial Review

We recommend that the political, economic and social development of the Northwest Territories be subject to public review not more than ten years hence, and that provision for the review be incorporated in the Northwest Territories Act.

6. ANCILLARY RECOMMENDATIONS

(a) Communications

We endorse the recommendation of the Fowler Committee on Broadcasting that there be an increase in expenditures for the northern service of the Canadian Broadcasting Corporation "to at least \$1.7 million as soon as possible", and we urge its implementation.

We recommend that the matter of postal service to outlying communities be studied with a view to the reduction of air postage rates within the Territories other than for first class mail, and with a view to a general improvement in postal services.

(b) Boundaries

We recommend that the boundaries of both political and administrative divisions within the Territories, federal and territorial, be coordinated as far as possible.

(c) Translation of Recommendations

We recommend that consideration be given to the translation of our recommendations into the various Indian and Eskimo languages.

